

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

FILED
DEC 21 2023
22ND JUDICIAL CIRCUIT
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**MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)**

ENTERED

DEC 21 2023

PHILLIP WEEKS,)
)
Plaintiff,)
) Cause No. 1922-CC11987
vs.)
) Division No. 20
CITY OF ST. LOUIS,)
)
Defendant.)

TEP

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

This cause was tried before the Court on June 26, June 27, and July 20, 2023 on the Petition of Plaintiff Phillip Weeks ("Plaintiff") against Defendant City of St. Louis ("Defendant"). Plaintiff appeared in person and by his attorneys, William P. Mobley and Amy E. Breihan. Defendant City of St. Louis appeared through its attorney, Lawrence L. Pratt.

The Court heard evidence from the parties, which included the testimony of Plaintiff, Andrew Arkills, Sherri Schaefer, and Sergeant Charles Wall.

At the conclusion of the trial on July 20, 2023, the parties were directed by the Court to file proposed Findings of Fact and Conclusions of Law within 45 days. Both parties filed their proposed Findings of Fact and Conclusions of Law on September 5,

2023, and the matter was taken under submission at that time.

The Court, after hearing the testimony offered by the parties, reviewing the evidence, and taking notice of the pleadings, hereby enters its Findings of Fact, Conclusions of Law, and Judgment as follows:

FINDINGS OF FACT

Based on the evidence before it, the Court makes the following findings of fact:

1. This Court has jurisdiction over Defendant under the laws of the State of Missouri pursuant to Section 610.010 *et seq.*, RSMo.
2. Venue is proper in this case under Section 610.027(1), RSMo, as the principal place of business of Defendant is in the City of St. Louis.
3. On July 5, 2019, Plaintiff made a request for records of the St. Louis Metropolitan Police Department ("SLMPD") pursuant to Section 610.023, RSMo. Specifically, Plaintiff requested:

Files of the databases containing data generated from vehicle stop forms for 2014 through and including 2018, including officer PINS/DSNs, that are kept pursuant to Mo. Rev. Stat. Section 590.650.

Plaintiff further stated in his request:

To clarify, this open records request is for files containing the databases (in worksheet, ie excel workbook formatting) created from the raw data

transmitted upon the completion of the vehicle stop forms.

4. SLMPD is a public governmental body subject to the requirements of the Missouri Sunshine Law.
5. Data is collected pursuant to Section 590.650 *et seq.*, RSMo, each time a driver of a motor vehicle is stopped by a SLMPD officer. This data is stored by REJIS. SLMPD does not have direct access to the REJIS database.
6. SLMPD timely acknowledged receipt of Plaintiff's July 5, 2019 request.
7. On July 19, 2019, Plaintiff modified his request to indicate that he was willing to accept the records in any spreadsheet program:

For clarification, my request is not for the vehicle stop forms, but the database in spreadsheet formatting (preferably in excel) that contains the data from the vehicle stop forms.

8. On August 9, 2019, Defendant informed Plaintiff via e-mail that Defendant had no records delineated "vehicle stop forms." Defendant suggested Plaintiff may want the records known as traffic analysis reports, which Defendant determined contained the data Plaintiff was seeking. Defendant indicated that there were approximately 150,000 of the traffic analysis reports from January 1, 2016 through December 31, 2018, that

it would take a minimum of 80 hours to collect the records, and the cost would be \$1,040. Defendant attached a sample traffic analysis report for Plaintiff's review. Defendant indicated that an officer's department service number ("DSN") is a closed record and would need to be redacted from the traffic analysis reports.

9. Defendant further indicated in the August 9, 2019 e-mail that it had no obligation to create a new record under the Sunshine Law of any "file of a database containing data generated from vehicle stop forms."
10. In response to the August 9, 2019 email, Plaintiff indicated the traffic analysis reports were not responsive to his request. He reiterated that he wanted the data from "vehicle stop" forms in spreadsheet formatting.
11. On November 13, 2019, Plaintiff brought this action pursuant to the Missouri Sunshine Law, Section 610.010 *et seq.*, RSMO, to require public disclosure from Defendant of data relating to "vehicle stops" by officers of the SLMPD.
12. This case was tried before this Court on June 26, 2023, June 27, 2023, and July 20, 2023.
13. The Court heard testimony from Plaintiff and Plaintiff's witnesses, Sergeant Charles Wall, Sherri Schaefer, and Andrew

Arkills.

14. SLMPD Sergeant Charles Wall testified that he assisted Plaintiff with his request under the Sunshine Law. Sergeant Wall testified that he spoke with Sherri Schaefer in the IT department of the SLMPD for help trying to process Plaintiff's request. Sergeant Wall testified that the data in the spreadsheet format requested by Plaintiff did not exist.
15. Plaintiff testified that he wanted a spreadsheet of the raw data for each vehicle stop and specifically noted that a spreadsheet in Excel would be preferable, as it would allow him to analyze the data and edit and reorganize the data.
16. Sheri Schaefer testified that a REGIS programmer would provide data on the server and the SLMPD programmers would retrieve the data. She testified that Excel spreadsheets would not have been provided, as they were not the system of record for that type of data and were not maintained. She testified that she believed that the traffic analysis reports were responsive to Plaintiff's request.
17. Defendant objected to the expert testimony of Andrew Arkills, a data analytics manager at BJC Healthcare, and the Court took the objection with the case. The Court overrules Defendant's objections to the admission of the expert

testimony from Andrew Arkills and will consider his testimony in making its ruling.

CONCLUSIONS OF LAW

Based on the above findings of fact, the Court now makes the following conclusions of law:

18. Plaintiff seeks a judgment from this Court holding that Defendant knowingly and purposefully violated the Sunshine Law and ordering Defendant to produce responsive data kept pursuant to Section 590.650, RSMo, in spreadsheet format with DSNs included.
19. Missouri's Sunshine Law was enacted to allow public access to governmental records and meetings. Jones v. Jackson City Circuit Court, 162 S.W.3d 53, 59 (Mo.App. W.D. 2005).
20. A "public record" under Section 610.010(6), RSMo, is defined as "any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by

private contractors under an agreement with a public governmental body or on behalf of a public governmental body."

21. Under Section 610.010(6), RSMo, the definition of "public record" includes only those records, either written or electronic, that are "already in existence that the public governmental body is 'holding' or 'maintaining' in its possession." Jones, 162 S.W.3d at 60.
22. The Sunshine Law only requires access to existing records and does not mandate a public governmental body to generate a new record or report from raw data available that is typically not generated by the public governmental body. Jones, 162 S.W.3d at 60.
23. Plaintiff's request for records under the Sunshine Law is specific to records kept pursuant to Section 590.650, RSMo. Plaintiff requested "files containing the databases (in worksheet, ie excel workbook formatting) created from the raw data transmitted upon the completion of the vehicle stop forms."
24. Under Section 590.650.3, RSMo, each law enforcement agency is required to compile certain data for the calendar year into a report for the Missouri Attorney General.
25. Section 590.650.2, RSMo, provides:

Each time a peace officer stops a driver of a motor vehicle, that officer shall report the following information to the law enforcement agency that employs the officer:

- (1) The age, gender and race or minority group of the individual stopped;
- (2) The reasons for the stop;
- (3) Whether a search was conducted as a result of the stop;
- (4) If a search was conducted, whether the individual consented to the search, the probable cause for the search, whether the person was searched, whether the person's property was searched, and the duration of the search;
- (5) Whether any contraband was discovered in the course of the search and the type of any contraband discovered;
- (6) Whether any warning or citation was issued as a result of the stop;
- (7) If a warning or citation was issued, the violation charged or warning provided;
- (8) Whether an arrest was made as a result of either the stop or the search;
- (9) If an arrest was made, the crime charged; and
- (10) The location of the stop.

Such information may be reported using a format determined by the department of public safety which uses existing citation and report forms.

A DSN is not required in this or any other provision of Section 590.650, RSMo.

26. Plaintiff's request is specific and limited to data kept pursuant to Section 590.650, RSMo. Section 590.650, RSMo, makes no mention of a DSN. Therefore, it is not necessary to decide whether a DSN is a public record subject to Missouri's Sunshine Law.
27. The plain language of the Sunshine Law does not require Defendant to create a new record. See Jones, 162 S.W.3d at 60 ("There is nothing in the definition of 'public records,' however, that indicates that it includes written or electronic records that can be created by the public governmental body, even if the new record could be created from information culled from existing records.")
28. Based on the evidence before the Court, Plaintiff is seeking the creation of a new record in spreadsheet format of "vehicle stop" data. There was no evidence adduced at trial that the SLMPD maintains any "vehicle stop" information in "spreadsheet formatting" or any other organized form. The evidence adduced showed that the data is stored by REJIS, and Defendant, as a vendor, only has access to the raw data gathered from traffic stops, which could not be transmitted in its native form or organized in spreadsheet format without using computer programming to extract it.

29. Defendant does not hold or maintain an existing record responsive to Plaintiff's specific request. Defendant offered to produce its "traffic analysis reports," which based on the evidence before the Court were the only responsive and existing records that could have been produced to Plaintiff, and Plaintiff refused Defendant's offer.
30. This Court holds that Defendant did not violate the Sunshine Law by failing to comply with Plaintiff's request to create a new, customized record.
31. Judgment is therefore entered in favor of Defendant and against Plaintiff.

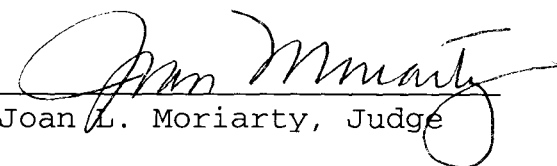
JUDGMENT

The Court now orders, adjudges, and decrees as follows:

Judgment is entered in favor of Defendant City of St. Louis and against Plaintiff Phillip Weeks.

Costs taxed against Plaintiff.

SO ORDERED:


Joan L. Moriarty, Judge

Dated: December 21, 2023